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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,691	11/13/2003	Francesco Basile	Serie 6053	9103

7590 03/30/2007
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EXAMINER

NGUYEN, CAM N

ART UNIT PAPER NUMBER

1754

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/30/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/712,691	Applicant(s) BASILE ET AL.	
	Examiner Cam N. Nguyen	Art Unit 1754	

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 3/12/07 (an amendment/response).
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-35 and 37-56 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16-35 and 37-56 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on originally filed is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Withdrawal Finality of Last Office Action

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Response to Amendment

2. Applicants' amendment and remarks, filed on March 12, 2007, has been made of record and entered. Claims 1-15 & 36 have been canceled. Claims 16, 18, 30, 32, 34-35, 37, 39, 51, 53, & 55-56 have been amended.

Claims 16-35 & 37-56 are currently pending.

Claim Objections

3. Claims 18, 22-23, 27-29, 39, 43-44, & 48-54 are objected to because of the following informalities:

- A. Claims 18, 22-23, 39, 43-44, 48-50, line 2, "further" should be deleted.
- B. In claims 18 & 39, line 5, "lathanide" should be --lanthanide--.
- C. Claims 27-29, 48-50, line 2, "about" should be deleted.
- D. In claims 48-50, line 2, "comrpising" should be --comprising--.
- E. In claim 51, line 2, "the operating catalyst condition is in the range of" should be changed to --the process is carried out under a condition at a temperature in the range of--.
- F. In claim 52, line 2, "said catalyst condition is in the range of" should be changed to --said condition is at a temperature in the range of--.

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G. In claim 53, line 2, “the operating catalyst condition is in the range of” should be changed to --the process is carried out under a condition at a pressure in the range of--.

H. In claim 54, line 2, “said catalyst condition is in the range of” should be changed to --said condition is at a pressure in the range of--.

Appropriate correction is required.

Claim Rejections - 35 USC § 112 (First Paragraph)

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 16-35 & 37-56 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The specification does not provide basis or support for the “nickel metal” and “rhodium metal” or the “rhodium metal” as separate components from the “Ni” and “Rh” contained in the perovskite crystallographic structure in the catalytic composition as claimed in the depending claims. The Examples in the specification only recites adding the La, Fe, Ni, and Rh nitrate solutions together to form a precipitation to obtain the catalyst composition, but it does not recite adding “Ni” and “Rh” separately from the mixture above. Thus, the claims are not commensurate in the scope with the instant disclosure.

Claim Rejections - 35 USC § 112(Second Paragraph)

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 16-35 & 37-56 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A. Regarding claims 16-17 & 37-38, the claims required that the “nickel metal” and “rhodium metal” are separate components from the perovskite crystallographic structure in the catalyst composition, but since the specification does not clearly define that the “nickel metal” and “rhodium metal” are separate components from the perovskite crystallographic structure, it renders the claims vague and indefinite.

B. Claim 50 is depending upon claim 49, which is depending upon claim 44. Claim 44 contains “Rh” wherein “y” is defined in claim 39 as $0 < y < 0.5$, which is not “0”. However, the chemical compound does not include “Rh”. Thus, renders the claim vague and indefinite.

Claim Rejections - 35 USC § 102(b)

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 16-17, 30-35, 37-38, & 51-56 are rejected under 35 U.S.C. 102(b) as being anticipated by Petit et al., “hereinafter Petit”, (US Pat. 5,447,705).

Petit discloses a catalyst for partial oxidation of methane or a gaseous mixture containing methane, said catalyst having a perovskite crystalline structure and having the following composition: $\text{Ln}_x\text{A}_{1-y}\text{B}_y\text{O}_3$ in which x is a number such that $0 < x < 10$, y is a number such that $0 < y < 1$, **Ln** is at least one of a rare earth, strontium or bismuth, **A** is a metal of groups IVb, Vb, VIb, VIIb or VIII of the periodic table of elements, **B** is a metal of groups IVb, Vb, VIb, VIIb or VIII of the periodic table of elements, and **A** and **B** are two different metals (see col. 5 & col. 5, claim 1). See also claim 2 at col. 6 of the reference, which discloses the claimed metals. The catalyst is prepared by a process at the claimed temperature and pressure (see col. 6, claim 6).

Regarding claims 16-17, Petit teaches the claimed catalyst composition, thus anticipates the claims.

Regarding claims 30-35 & 55-56, the limitations in the claims are intended use limitations. While these limitations are not disregarded, they have no bearing on the patentability of the claimed catalyst.

Regarding claims 37-38 & 51-54, the catalyst is prepared by a process at the claimed temperature and pressure (see col. 6, claim 6 of the reference).

Response to Applicants' Arguments

10. Applicants' response, filed on March 12, 2007, has been fully reconsidered, but not deemed persuasive in view of the new ground of rejection(s) and/or objection(s) above.

Citations

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. All references are cited for related art. See PTO-892 Form prepared attached.

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Conclusion

12. Claims 16-35 & 37-56 are pending. Claims 16-35 & 37-56 are rejected. No claims are allowed.

Contacts

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Primary Examiner Cam N Nguyen, whose telephone number is 571-272-1357. The examiner can normally be reached on M-F, 9:00 AM - 6:30 PM, at alternative work site.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman, can be reached on 571-272-1358. The fax phone number for the organization where this application or proceeding is assigned is 571-272-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Cam N. Nguyen/

Nguyen/cnn

Primary Examiner

March 28, 2007

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